

Remarks/Arguments

Claims 1, 3-5, 8-13, 15-17, and 20-28 are pending in the application. Of these, claims 1, 9, 13 and 21 are independent claims.

Independent claim 1 has been amended to reflect that the claimed method is performed at a server in communication with a wireless communication device. This amendment is supported in the application as filed, e.g. at paragraphs [0094], [0098] and [0109] and claim 13. As well, operational statuses pertaining to the N most recent errors, device make and model and device power remaining have been excised. Claims 2, 6 and 7 have accordingly been cancelled. Further, the limitation “an indication of a user interface screen” has been changed to “a name of a user interface screen.” This amendment is supported in FIG. 16 at line 16.

Independent claim 13 has been amended to reflect all of the above-noted amendments to claim 1 except the first amendment, and claims 14, 18 and 19 have correspondingly been cancelled.

Independent claims 9 and 21 have been amended in a similar fashion to claim 13, with the exception that the language “that is external to said wireless communication device” has been added. That language reflects the fact that the response message is sent from the wireless communication device to a separate device, e.g. middleware server 44, as described in paragraphs [0094], [0098] and [0109]

New dependent claims 15-18 have been added. Each of these claims further specifies that the indication of N most frequently received messages comprises a plurality of messages. These claims are supported in paragraph [0109] of the

specification.

In the Office Action, claims 2-8 and 14-20 were objected to under 37 CFR 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim. It was suggested that these claims do not further limit the subject matter of independent claims 1 and 13.

The Applicant traverses this suggestion. The subject matter of each identified dependent claim does in fact further limit the claim from which it depends. When a base claim sets out multiple features in the alternative, the recitation of a specific one of those alternative features as being required in a dependent claim constitutes a narrowing of the base claim. The reason is that the feature of the dependent claim is required, whereas the corresponding feature of the base claim is not necessarily required. For that to be true, the scope of the dependent claim must be narrower than that of the base claim. Accordingly, the requirements of 37 CFR 1.75(c) have been met.

Claim 1 has been rejected under 25 USC 102(b) as being anticipated by US 6,167,441 ("Himmel"). The Applicant has amended claim 1 as described above. It is submitted that amended claim 1 cannot be anticipated by Himmel because at least two features of the claim are not shown in Himmel.

The first feature that is not shown in Himmel is "at a server in communication with said wireless communication device." In rejecting claim 1 based on Himmel, the Examiner refers to functionality which occurs solely at the client device of Himmel. For example, referring to FIGS. 1 and 4 of Himmel, it can be seen that the "browser",

“snoop agent” and “client smart agent” are all collocated within RAM 24 of the same (client) device. Moreover, it is clear from column 7, lines 11-14 that the “intercepting” is of an “HTTP request directed to a supported server application.” This language suggests that the intercepted request originates at the client device and is merely destined for a server device. Accordingly, operation 201-215, which is relied upon as disclosing elements of the method of claim 1, occurs at the client device. The client device of Himmel is purported to constitute the “wireless communication device” of claim 1. As a result, operation at the client device cannot disclose a method “at a server in communication with said wireless communication device.”

The second feature that is not shown is the feature “wherein said operational status of the wireless communication device comprises: an indication of N messages most frequently received at said device, where N is an integer; a name of a user interface screen currently displayed at said device; a network identifier identifying a wireless network over which said device is communicating; or an indication of available memory at said wireless communication device.” None of the four alternatives comprising this feature is shown in Himmel. With respect to the second alternative pertaining to a “user interface screen”, the Applicant traverses any suggestion that the cited portions of Himmel disclose an operational status comprising a name of a user interface screen currently displayed at the device. The dialog box of FIG. 6 appears to be a mechanism for receiving user input. However, nowhere is it stated that the user input includes a name of a user interface screen. With respect to the fourth alternative pertaining to “available memory”, the Applicant traverses the suggestion that Himmel’s reference to “memory capabilities”, at column 2 line 32 discloses an indication of

“available memory.” The term “memory capabilities” more conventionally refers to general memory characteristics such as memory speed. Even if a memory size were to be indicated as part of Himmel’s “memory capabilities”, this would not reflect “available memory” since at least some of that memory would presumably be occupied (and thus unavailable) at run time.

For these reasons, claim 1 as amended is believed to be novel over Himmel. The same reasoning applies to claim 13, which is a server claim corresponding to claim 1.

Independent claims 9 and 21 were also rejected as anticipated by Himmel based on the same logic as claim 1. These claims have been amended as described above. The above arguments are equally applicable to these claims. In particular, it is noted that Himmel does not send a response message indicative of the operational status of a wireless communication device from the device to an originator of the received message that is external to the wireless communication device. The rejection of these claims is therefore similarly traversed.

The Examiner also rejected each of independent claims 1, 9, 13 and 21 as anticipated by a second reference, i.e. CA 2,274,866 (“Lupien”).

With respect to claim 1 and 13, the Applicant submits that the “second feature” noted above in respect of claim 1, i.e. “wherein said operational status of the wireless communication device comprises: an indication of N messages most frequently received at said device, where N is an integer; a name of a user interface screen currently displayed at said device; a network identifier identifying a wireless network

over which said device is communicating; or an indication of available memory at said wireless communication device,” is not disclosed by Lupien because none of the four alternatives is disclosed by Lupien. With respect to the third “network identifier” alternative, the Applicant traverses the suggestion that Lupien’s reference to “G3-Fax Support” or “SMS support” in its Table 1 (page 9) truly discloses “a network identifier identifying a wireless network over which said device is communicating.” Merely indicating features supported by a device saying nothing of whether the device is actually using those features. Thus mere determination that a device supports G3-Fax or supports SMS does not constitute an indication of a network over which the device is communicating.

The same arguments are equally applicable to claims 9 and 21.

Because none of the independent claims is anticipated by either of Himmel or Lupien, it follows that no dependent claims can be anticipated by either of Himmel or Lupien.

All of the remaining claims were rejected under 35 USC 103(a) as unpatentable over Himmel in view of either US 6,088,588 (“Osborne”) or Tim Bray et al. However, because each of those rejections builds upon the rejection of the independent claims from which they depend (in respect of which certain features have been shown to be absent given the Applicant’s amendment of these claims) no *prima facie* obviousness has been demonstrated for any of those claims. There is no evidence that that the feature(s) missing from the base claims can be found in Osborne or Bray et al.

Specifically in response to paragraph 26 of the Office Action, the Applicant

expressly traverses any suggestion that Osborne discloses an indication of N messages most frequently received at said device. There is simply no indication that the logging of "call connection events" would indicate the N messages most frequently received at the device. For example, even if it were assumed that some sort of message log were kept (which is at best unclear), this might simply be an indication of most recently received messages. However, the most recently received messages do not necessarily reflect the most frequently received messages at a device. For example, if 100 messages A are received, and then 10 messages B are received, and the log only stores the last ten received messages, the log will not reflect the most frequently received messages at the device.

New claims 25-28 are believed to be allowable for at least the same reasons as the base claims from which they depend. Moreover, none of the cited references are known to disclose an indication of a plurality of messages most frequently received at a device.

In view of the foregoing, favorable reconsideration and allowance of the application are earnestly solicited.

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Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Peter Elyjiw', is written over a horizontal line.

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